

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

| | | |
|----------------------------------|---|------------------|
| MARTHA BRIGGS WALKER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No.: 3:10-CV-542 |
| |) | (VARLAN/SHIRLEY) |
| MICHAEL J. ASTRUE, |) | |
| Commissioner of Social Security, |) | |
| |) | |
| Defendant. |) | |

ORDER

This Social Security appeal is before the Court on the Report and Recommendation entered by United States Magistrate Judge C. Clifford Shirley, Jr., on December 6, 2011 [Doc. 25]. There have been no timely objections to the Report and Recommendation and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In the Report and Recommendation, the magistrate judge finds that plaintiff's allegation that the ALJ in this case erred in his treatment of the Medical Assessment completed by Dr. McMillian to be well taken and all other allegations of error to be not well taken. He thus recommends that plaintiff's motion for summary judgment [Doc. 13] be granted in part and denied in part and that the Commissioner's motion for summary judgment [Doc. 22] be granted in part and denied in part. He further recommends that this case be remanded to the ALJ for consideration of the Medical Assessment and appropriate findings under 20 C.F.R. §§ 404.1527(d)(2) and/or 416.927(d)(2).

The Court has carefully reviewed this matter, including the underlying motions and the complaint. The Court is in agreement with the magistrate judge's recommendation, which the Court adopts and incorporates into its ruling. Accordingly, the Court **ACCEPTS IN WHOLE** the Report and Recommendation [Doc. 25]. Additionally, it is hereby **ORDERED** that Plaintiff's Motion for Summary Judgment [Doc. 13] is **DENIED in part and GRANTED in part** and the Commissioner's Motion for Summary Judgment [Doc. 22] is **DENIED in part and GRANTED in part**. The Commissioner's decision in this case denying plaintiff's application for supplemental security income is **REVERSED** and this case is **REMANDED** to the ALJ for consideration of the Medical Assessment and appropriate findings under 20 C.F.R. §§ 404.1527(d)(2) and/or 416.927(d)(2) and consistent with this order and the magistrate judge's Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

s/ Debra C. Poplin
CLERK OF COURT